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By: **Senator Giannetti**

Introduced and read first time: January 31, 2003

Assigned to: Judicial Proceedings

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A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure - Sentencing - House Arrest**

3 FOR the purpose of authorizing the court under certain circumstances to order a term  
4 of house arrest which requires an individual to remain in a private dwelling at  
5 all times; and generally relating to sentencing procedures and house arrest.

6 BY repealing and reenacting, with amendments,  
7 Article - Criminal Procedure  
8 Section 6-219, 6-220, and 6-225  
9 Annotated Code of Maryland  
10 (2001 Volume and 2002 Supplement)

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
12 MARYLAND, That the Laws of Maryland read as follows:

13 **Article - Criminal Procedure**

14 6-219.

15 (a) (1) In this section, "custodial confinement" means:

16 (i) home detention;

17 (ii) a corrections options program established under law which  
18 requires the individual to participate in home detention, inpatient treatment, or other  
19 similar program involving terms and conditions that constitute the equivalent of  
20 confinement; [or]

21 (iii) inpatient drug or alcohol treatment; OR

22 (IV) HOUSE ARREST, WHICH REQUIRES THE INDIVIDUAL TO  
23 REMAIN IN A PRIVATE DWELLING AT ALL TIMES.

24 (2) "Custodial confinement" does not include imprisonment.

25 (b) Subject to subsection (c) of this section, a court:

1 (1) may suspend a sentence generally or for a definite time;

2 (2) may pass orders and impose terms as to costs, recognizance for  
3 appearance, or matters relating to the residence or conduct of the defendant who is  
4 convicted as may be deemed proper;

5 (3) if the defendant who is convicted is under 18 years of age, may order  
6 confinement in any care or custody as may be deemed proper; or

7 (4) may order a person to a term of custodial confinement as a condition  
8 of a suspended sentence.

9 (c) (1) If the court places on probation a defendant who has been convicted  
10 of a violation of § 21-902(a) or (b) of the Transportation Article, the court shall require  
11 as a condition that the defendant participate in an alcohol treatment or education  
12 program approved by the Department of Health and Mental Hygiene, unless the court  
13 finds and states on the record that the interests of the defendant and the public do not  
14 require the imposition of this condition.

15 (2) If the court places on probation a defendant who has been convicted  
16 of a violation of any provision of Title 5 of the Criminal Law Article, the court shall  
17 require as a condition that the defendant participate in a drug treatment or education  
18 program approved by the Department of Health and Mental Hygiene, unless the court  
19 finds and states on the record that the interests of the defendant and the public do not  
20 require the imposition of this condition.

21 (d) (1) In Calvert County, Charles County, and St. Mary's County, the court  
22 may impose a sentence of imprisonment as a condition of probation.

23 (2) In Prince George's County, the court on conviction may sentence a  
24 defendant to the local correctional facility, if:

25 (i) the sentence is to be performed during any 48-hour period in a  
26 7-day period, with each period of confinement to be not less than 2 days of the  
27 sentence imposed;

28 (ii) the crime leading to the conviction allows confinement in the  
29 local correctional facility; and

30 (iii) the total sentence does not exceed 30 2-day periods of  
31 confinement.

32 (e) If an individual violates the terms of probation, any time served by the  
33 individual in custodial confinement shall be credited against any sentence of  
34 incarceration imposed by the court.

35 6-220.

36 (a) (1) In this section, "custodial confinement" means:

- 1 (i) home detention;
- 2 (ii) a corrections options program established under law which  
3 requires the individual to participate in home detention, inpatient treatment, or other  
4 similar program involving terms and conditions that constitute the equivalent of  
5 confinement; [or]
- 6 (iii) inpatient drug or alcohol treatment; OR
- 7 (IV) HOUSE ARREST, WHICH REQUIRES THE INDIVIDUAL TO  
8 REMAIN IN THE DWELLING AT ALL TIMES.
- 9 (2) "Custodial confinement" does not include imprisonment.
- 10 (b) (1) When a defendant pleads guilty or nolo contendere or is found guilty  
11 of a crime, a court may stay the entering of judgment, defer further proceedings, and  
12 place the defendant on probation subject to reasonable conditions if:
- 13 (i) the court finds that the best interests of the defendant and the  
14 public welfare would be served; and
- 15 (ii) the defendant gives written consent after determination of guilt  
16 or acceptance of a nolo contendere plea.
- 17 (2) Subject to paragraphs (3) and (4) of this subsection, the conditions  
18 may include an order that the defendant:
- 19 (i) pay a fine or monetary penalty to the State or make restitution;  
20 or
- 21 (ii) participate in a rehabilitation program, the parks program, or a  
22 voluntary hospital program.
- 23 (3) Before the court orders a fine, monetary penalty, or restitution, the  
24 defendant is entitled to notice and a hearing to determine the amount of the fine,  
25 monetary penalty, or restitution, what payment will be required, and how payment  
26 will be made.
- 27 (4) Any fine or monetary penalty imposed as a condition of probation  
28 shall be within the amount set by law for a violation resulting in conviction.
- 29 (5) As a condition of probation, the court may order a person to a term of  
30 custodial confinement.
- 31 (c) (1) When the crime for which the judgment is being stayed is for a  
32 violation of § 21-902 of the Transportation Article, the court shall impose a period of  
33 probation and, as a condition of the probation:
- 34 (i) shall require the defendant to participate in an alcohol  
35 treatment or education program approved by the Department of Health and Mental

1 Hygiene, unless the court finds and states on the record that the interests of the  
2 defendant and the public do not require the imposition of this condition; and

3 (ii) may prohibit the defendant from operating a motor vehicle  
4 unless the motor vehicle is equipped with an ignition interlock system under § 27-107  
5 of the Transportation Article.

6 (2) When the crime for which the judgment is being stayed is for a  
7 violation of any provision of Title 5 of the Criminal Law Article, the court shall impose  
8 a period of probation and, as a condition of probation, require the defendant to  
9 participate in a drug treatment or education program approved by the Department of  
10 Health and Mental Hygiene, unless the court finds and states on the record that the  
11 interests of the defendant and the public do not require the imposition of this  
12 condition.

13 (d) Notwithstanding subsections (b) and (c) of this section, a court may not  
14 stay the entering of judgment and place a defendant on probation for:

15 (1) a violation of § 21-902 of the Transportation Article or § 2-503, §  
16 2-504, § 2-505, § 2-506, or § 3-211 of the Criminal Law Article, if within the  
17 preceding 5 years the defendant has been convicted under § 21-902 of the  
18 Transportation Article or § 2-503, § 2-504, § 2-505, § 2-506, or § 3-211 of the  
19 Criminal Law Article, or has been placed on probation in accordance with this section,  
20 after being charged with a violation of § 21-902 of the Transportation Article or §  
21 2-503, § 2-504, § 2-505, § 2-506, or § 3-211 of the Criminal Law Article;

22 (2) a second or subsequent controlled dangerous substance crime under  
23 Title 5 of the Criminal Law Article; or

24 (3) a violation of any of the provisions of §§ 3-303 through 3-307 of the  
25 Criminal Law Article for a crime involving a person under the age of 16 years.

26 (e) (1) By consenting to and receiving a stay of entering of the judgment as  
27 provided by subsections (b) and (c) of this section, the defendant waives the right to  
28 appeal at any time from the judgment of guilt.

29 (2) Before granting a stay, the court shall notify the defendant of the  
30 consequences of consenting to and receiving a stay of entry of judgment under  
31 paragraph (1) of this subsection.

32 (f) On violation of a condition of probation, the court may enter judgment and  
33 proceed as if the defendant had not been placed on probation.

34 (g) (1) On fulfillment of the conditions of probation, the court shall  
35 discharge the defendant from probation.

36 (2) The discharge is a final disposition of the matter.

1 (3) Discharge of a defendant under this section shall be without  
2 judgment of conviction and is not a conviction for the purpose of any disqualification  
3 or disability imposed by law because of conviction of a crime.

4 (h) In Allegany County, Calvert County, Charles County, Garrett County,  
5 Howard County, and St. Mary's County, the court may impose a sentence of  
6 imprisonment as a condition of probation.

7 (i) If an individual violates the terms of probation, any time served by the  
8 individual in custodial confinement shall be credited against any sentence of  
9 incarceration imposed by the court.

10 6-225.

11 (a) (1) In this section, "custodial confinement" means:

12 (i) home detention;

13 (ii) a corrections options program established under law which  
14 requires the individual to participate in home detention, inpatient treatment, or other  
15 similar program involving terms and conditions that constitute the equivalent of  
16 confinement; [or]

17 (iii) inpatient drug or alcohol treatment; OR

18 (IV) HOUSE ARREST, WHICH REQUIRES THE INDIVIDUAL TO  
19 REMAIN IN THE INDIVIDUAL'S DWELLING AT ALL TIMES.

20 (2) "Custodial confinement" does not include imprisonment.

21 (b) (1) (i) Probation may be granted whether the crime is punishable by  
22 fine or imprisonment or both.

23 (ii) If the crime is punishable by both fine and imprisonment, the  
24 court may impose a fine and place the defendant on probation as to the imprisonment.

25 (iii) Probation may be limited to one or more counts or indictments  
26 but, in the absence of express limitation, extends to the entire sentence and judgment.

27 (iv) The court may revoke or modify a condition of probation or may  
28 reduce the period of probation.

29 (v) As a condition of probation, the court may order a defendant to  
30 a term of custodial confinement.

31 (2) If a sentence of imprisonment is imposed and a part of it is suspended  
32 with the defendant placed on probation, the court may impose as a condition of  
33 probation that the probation begin on the day the defendant is released from  
34 imprisonment.

1 (c) If the court places on probation a defendant who has been convicted of a  
2 violation of any provision of Title 5 of the Criminal Law Article, the court shall require  
3 as a condition that the defendant participate in a drug treatment or education  
4 program approved by the Department of Health and Mental Hygiene, unless the court  
5 finds and states on the record that the interests of the defendant and the public do not  
6 require the imposition of this condition.

7 (d) In Calvert County, Cecil County, Charles County, Harford County, and St.  
8 Mary's County, the court may impose a sentence of imprisonment as a condition of  
9 probation.

10 (e) If an individual violates the terms of probation, any time served by the  
11 individual in custodial confinement shall be credited against any sentence of  
12 incarceration imposed by the court.

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
14 October 1, 2003.